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REMARKS

Entry of this response under 37 C.F.R. §1.116 is proper because no new claims or issues are raised which would require further consideration and/or search by the Examiner.

Claims 1-20 are all the claimed pending in the present application.

It is noted that the claims amendments are made only for pointing out the claimed invention more particularly, and not for distinguishing the invention over the prior art, narrowing the claims, or for statutory requirements for patentability. Further Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-8 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolls (U.S. Patent Number 6,056,194) in view Partyka et al. (U.S. Patent No. 6,250,452) (hereinafter Partyka), Schwartzendruber (U.S. Patent No. 5,207,784), and Whitehead (GB 2367727).

Claims 2 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over in view of Partyka, Schwartzendruber, and Whitehead, and further in view of Sedam (U.S. Patent No. 4,412,292). Claims 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolls in view of Partyka, Schwartzendruber, and Whitehead, and further in view of Howell (U.S. Patent No. 6,462,644). Claims 13-15 and 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolls in view of Partyka, Schwartzendruber, and Whitehead, and further in view of Perin, Jr. (U.S. Patent No. 6,356,794).

Applicant respectfully traverses these rejections in the following discussion.

I. THE CLAIMED INVENTION

An exemplary aspect of the claimed invention, as recited in independent claim 1, and as similarly recited in independent claims 4 and 7, is directed to a goods sales management system, including a plurality of vending machines, each of the vending machines having a container for storing a plurality of goods and a vending machine management apparatus for controlling the

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plurality of vending machines, the vending machine management apparatus being associated with each of the plurality of goods vending machines. The vending machine management apparatus comprises time information transmitting means for transmitting time as time information to each of the plurality of vending machines. Each of the vending machines includes time adjustment management means for managing time as time information and making the managed time coincide with the time information managed by and transmitted from the vending machine management apparatus, goods delivering means for delivering the goods from the container, delivered-goods number counting means for counting a number of the goods delivered by the goods delivering means, goods number setting means for setting a maximum number of goods storable in the container according to a capacity of the container, and information transmitting/receiving means for transmitting a request for restocking the goods to the vending machine management apparatus when a number obtained by subtracting the number counted by the delivered-goods number counting means from the number set by the goods number setting means is less than a predetermined number of remaining goods. The vending machine transmits the time information as well as the request for restocking the goods to the vending machine management apparatus. The predetermined number is dynamically calculated prior to each restocking based upon a predicted time that a product will be sold out, and wherein the predicted time is based on a rate of sales of the product since a previous restocking, the predetermined number being dynamically calculated prior to each restocking to permit restocking to occur before the product will be sold out.

A conventional sales management system does not manage time when the goods are sold out, and it is therefore impossible to obtain sales information including a time of the stockout, an interval time in which the stockout occurs. For example, in instances where some vending machines run out of a good at night while others run out of another good during the day, because it is impossible to know time when the goods are sold out, it is difficult to define a priority of the vending machines to be restocked, and therefore perform the restocking operations effectively.

The present invention is provided with the goods sales management system having the

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plurality of goods vending machines and the vending machine management apparatus connected to the goods vending machines via the communication line capable of avoiding the loss of the valuable business opportunities for selling the goods. The claimed vending machine management apparatus can be informed of the time when the container has few stocks of the goods. Therefore, it is possible to know the sales condition of the goods and to predict time when the stockout occurs by calculating a period when a stock shortage of the goods occurs.

The goods can be restocked before the goods are sold out so as to prevent situation where the goods are not available after the stockout until the goods are restocked. The problem of the loss of the valuable business opportunities for selling the goods can be avoided. According to the goods sales management system of the present invention, the sales condition of the goods can be understood and predicted (the sales condition of the goods is assessed by length of time between the current restocking request and the next one). Furthermore, when a plurality of requests for restocking the goods are transmitted from the plurality of goods vending machines, it is also possible to define a priority of the goods vending machines to be restocked, and to perform the restocking operations effectively. See the Application, paragraphs [0008 and 0014].

II. THE ALLEGED PRIOR ART REFERENCES

On page 3 of the Office Action, the Examiner alleges that Kolls would be combined with Partyka, Shwartzendruber, and Whitehead to teach the invention as claimed in claims 1-8 and 17-20.

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, several basic criteria must be met. For example, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j). In addition, as stated in *KSR*, there must be some articulated reasoning with some

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rational underpinning to support the legal conclusion of obviousness (*In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) cited with approval in *KSR Int'l. v. Teleflex, Inc.*, 127 S.Ct. 1727 (2007)).

First, the claimed invention has been amended to recite, among other things, that the "wherein the predetermined number is dynamically calculated prior to each restocking based upon a predicted time that a product will be sold out, and wherein said predicted time is based on a rate of sales of said product since a previous restocking, the predetermined number being dynamically calculated prior to each restocking to permit restocking to occur before the product will be sold out."

That is, contrary to the Examiner's allegation that it is well known in the art to conventionally report low stock events, the conventional art fails to teach or suggest, among other things, "dynamically calculated prior to each restocking based upon a predicted time that a product will be sold out" where the "predicted time is based on a rate of sales of said product since a previous restocking," as recited in the independent claims.

Furthermore, in alleging a combination of Koll, Partyka, Shwartzendruber, and Whitehead, the Examiner has failed to provide articulated reasoning with some rational underpinning to support his legal conclusion of obviousness. Instead, the Examiner has provided an improperly conclusory basis for his alleged combinations. That is, simply alleging that one of ordinary skill in the art would combine the alleged references to "have an accurate count" relies on Applicant's own disclosure and not on any articulated reasoning.

Therefore, Kolls, even in combination with Kolls would be combined with Partyka, Shwartzendruber, Whitehead, Perin, Jr., Howell, and Sedam (*arguendo*) fails to teach or suggest the claimed invention as recited in independent claims 1, 4, and 7.

Furthermore, as the Examiner admits, the alleged combination of Koll, Partyka, Shwartzendruber, and Whitehead fails to teach or suggest every element as recited in independent claims 1 and 4. In fact, the Examiner has to interpret the collected references in such a manner so

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as to implicitly teach the claimed invention without actually performing or being configured in the same manner as the claimed invention.

Because the alleged references do not teach or suggest every element as recited in amended independent claims 1, 4 and 7, claims 1, 4 and 7 are improperly rejected. Accordingly, Applicant submits that claims 1, 4 and 7 are in condition for allowance.

With respect to claims 2, 3, 5, 6, and 8-20 which depend from independent claims 1, 4 and 7, respectively, each of these claims contains all the limitations contained within independent claims 1, 4 and 7, and are therefore also in condition for allowance.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

IV. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-20, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

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